

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD ZEITLIN,

Defendant.

23 Cr. 419 (LAK)

DECLARATION OF ROBERT G. BERNHOFT

I, Robert G. Bernhoft, hereby declare under penalty of perjury that:

1. I represent Richard Zeitlin in this matter, and hereby execute this Declaration in support of Defendant's Reply in Support of his Motion to Continue the Trial Date from October 21, 2024 to a date on or after February 3, 2025.

2. Except as explicitly to the contrary, I have personal knowledge of the facts set forth in the Declaration and if called upon to testify could do so competently.

3. The Government has referred to the August 15, 2024 discovery production as "the full Skype returns." This large dataset (approaching one-tenth of a Terabyte) appears to consist of data culled from one or more of Zeitlin's devices that were seized and imaged during the court of the search warrant executions, including extensive Skype message threads and Internet search query histories.

4. The Government believes this information was previously disclosed *en masse* in a bulk, undifferentiated earlier production, but isn't certain about which earlier production.

5. The defense’s initial survey of these documents has revealed evidence that is central to the charges against the Defendant and his defense, and therefore requires careful review.

6. The defense team, which consists of experienced attorneys, paralegals, and document reviewers, will necessarily need to expend significant resources not only reviewing a production of this size, but also integrating relevant materials into the defense strategy – along with Zeitlin’s review comments upon his receipt of the discovery drives being shipped to him shortly at MDC.

7. Under the current trial schedule, it simply isn’t possible that the defense team and Zeitlin could complete a competent review of this new discovery and integrate those materials prior to trial even with the application of all reasonable diligence.

8. The defense team has expedited the time-consuming data copy function and is on schedule to ship the drives to MDC by tomorrow (Friday, August 30, 2024).

9. MDC ultimately conceded that a transmittal letter was likely included – the defense emailed MDC and the Government with a copy of the transmittal letter and the FedEx proof of delivery – with MDC observing it could not ascertain when the cover letter “became separated from” the drive package.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated and executed on August 29, 2024
in Austin, Texas

/s/ Robert G. Bernhoft

Robert G. Bernhoft, Esq.